

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Michael A. Waller,)	
)	
Plaintiff,)	Case No. 1:08-CV-85
)	
vs.)	
)	
Shannon Bear,)	
)	
Defendant.)	

O R D E R

This matter is before the Court on Magistrate Judge Black's Report and Recommendation of June 26, 2009 (Doc. No. 113) and Plaintiff's objections to the Report and Recommendation (Doc. No. 117). In his Report and Recommendation, Magistrate Judge Hogan recommended that Defendant Bear's motion for summary judgment (Doc. No. 102) be granted and the case be closed on the docket of the Court. For the reasons that follow, the Court concludes that Plaintiff's objections to the Report and Recommendation are not well-taken; therefore, the objections are **OVERRULED**. The Court **ADOPTS** the Report and Recommendation. Defendant Bear's motion for summary judgment is well-taken and is **GRANTED**.

Plaintiff is a prisoner currently incarcerated at Southern Ohio Correctional Facility who presents a claim that Defendant Bear, a corrections officer, used excessive force as part of a team of officers who forcibly extracted Plaintiff from his cell when he refused to comply with an order to submit to

handcuffing. The entire incident was videotaped by another member of the extraction team and submitted in support of the motion for summary judgment. Upon reviewing the video, Magistrate Judge Black wrote a detailed narrative of the incident in his Report and Recommendation and determined that the officers' decision to forcibly extract Plaintiff from his cell was justified, that Defendant Bear did not use excessive force during the incident, and that Plaintiff's injuries did not demonstrate sadistic or malicious intent on the part of the Defendant. Magistrate Judge Black also provided a thorough explanation why Plaintiff's claim that the video was altered and did not reflect beatings which occurred off-camera was not supported by the record. Accordingly, Judge Black concluded that Plaintiff failed to establish a constitutional violation for excessive use of force, that Defendant's motion for summary judgment should be granted, and that the case be closed.

In his objections to the Report and Recommendation, Plaintiff still maintains that the videotape was altered.

The Court has reviewed the record de novo, including the videotape of the incident, as required by Fed. R. Civ. P. 72(b), and concludes that Judge Black's Report and Recommendation is factually and legally correct. Like Judge Black, the Court finds no evidence that the videotape was altered in anyway. To replicate Judge Black's analysis here would be a waste of

judicial resources. The Court, therefore, adopts Magistrate Judge Black's reasoning and analysis in its entirety.

Accordingly, Plaintiff's objections to the Report and Recommendation are not well-taken and are **OVERRULED**. The Court **ADOPTS** the Report and Recommendation. Defendant Bear's motion for summary judgment is well-taken and is **GRANTED**. The complaint is **DISMISSED WITH PREJUDICE**. Remaining motions on the docket (Doc. Nos. 54, 74, 81, 82, 83, 86, 90, 91, 92, 93, 94) are **MOOT**. **THIS CASE IS CLOSED**.

IT IS SO ORDERED

Date August 31, 2009

s/Sandra S. Beckwith
Sandra S. Beckwith
Senior United States District Judge